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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,571	04/12/2004	Marc Richelsoph	2184.00080	2636

7590 05/14/2007  
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EXAMINER
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PRIDDY, MICHAEL B

ART UNIT	PAPER NUMBER
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3733

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/822,571	<b>Applicant(s)</b> RICHELSOPH ET AL.	
	<b>Examiner</b> Michael B. Priddy	<b>Art Unit</b> 3733	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 11, 15-19, 21, 25, 27, 29, 30, 32-36, 38, 41, 42, 44-50, 52, 53, 56, 58-61 and 63-66 is/are rejected.
- 7) ☒ Claim(s) 57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040722</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 6,8-10,12-14,20,22-24,26,28,31,37,39,40,43,51,54,55 and 62.

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## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 6, 8-10, 20, 22-24, 26, 31, 37, 39, 40, 43, 51, 53, 54, 57 and 62 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/26/2007.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 65 requires "said rod seating means is smaller than the diameter of the rod being placed therein.

### ***Claim Objections***

Claim 61 is objected to because of the following informalities: in line 2, "said grooved wall" should be --said grooved portion--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 requires the "engaged condition" include a "grooved wall." It is unclear how such a *condition* can have a structural feature such as a *grooved wall*.

Claim 65 recites the limitation "the rod being placed therein" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 11, 15, 16, 18, 21, 25, 27, 29, 30, 32, 33, 38, 41, 42, 44-47, 52, 56, 58, 59, 63, 64 and 66 are rejected under 35 U.S.C. 102(a) as being anticipated by Kramer (WO 2004/021901). Kramer teaches a screw and rod fixation assembly for fixing a screw and a rod comprising: a screw 3 including a screw head; a body portion 5 including a screw head receiving means 4 for receiving said screw head and rod receiving means 10/11 for receiving a rod 12 therein, said rod receiving means 10/11 being offset from said screw head receiving means 4; and a cam lock 16 for locking the rod 12 within said rod receiving means 10/11; said cam lock 16 having an engaged

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condition for engaging and maintaining the rod in position in said rod receiving means 10/11 and an unengaged condition for enabling the rod to freely enter said rod receiving means 10/11; said cam lock further including gripping means 17 on an exterior surface capable of maintaining said cam lock in said body portion upon engagement with a rotary tool.

Concerning claim 41, it is noted that the Examiner has interpreted elements 17 of Kramer as the gripping means of claim 42. However, these elements could alternatively be considered extraction means since extraction means and gripping means are not *both* required by the present invention.

Concerning claims 44, 45, 58 and 59, Kramer discloses a spherical screw head seat in Fig. 13.

Claims 1, 2, 4, 5, 15-17, 19, 29, 30, 32, 33, 35, 36, 46, 47, 49, 50, 63, 64 and 66 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashman (US 6,183,473). Ashman teaches a screw and rod fixation assembly for fixing a screw and a rod comprising: a screw 40 including a screw head 42; a body portion 5 including a screw head receiving means 35 for receiving said screw head 42 and rod receiving means 31 for receiving a rod R therein, said rod receiving means 31 being offset from said screw head receiving means 35; and locking means 60 for locking the rod R within said rod receiving means 35; said locking means 60 having an engaged condition for engaging and maintaining the rod R in position in said rod receiving means 35 and an unengaged condition for enabling the rod R to freely enter said rod receiving means 35; said locking

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means also including a grooved wall 63 for positioning said locking means in said engaged condition.

Concerning claims 5, 19, 36 and 50, it is the Examiner's position that the grooves of the grooved wall 63 of the locking means 60 are capable of engaging a rod inserted into rod receiving means 31 and could therefore be considered "rod engaging means."

Claims 1-3, 32-34 and 46-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor (US 6,685,705). Taylor teaches a screw and rod fixation assembly for fixing a screw and a rod comprising: a screw B including a screw head; a body portion including a screw head receiving means 4 for receiving said screw head and rod receiving means 2 for receiving a rod A therein, said rod receiving means 2 being offset from said screw head receiving means 4; and locking means 3 for locking a rod A within said rod receiving means 2; wherein said locking means 3 has an engaged condition for engaging and maintaining the rod A in position in said rod receiving means 2 and an unengaged condition for enabling the rod A to freely enter said rod receiving means 2; wherein said locking means 3 includes a relieved wall (top surface of set screw head is recessed for engagement with a rotary tool) allowing positioning of said locking means 3 in said unengaged condition.

Claims 60 and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Simonson (US 5,643,263). Simonson teaches a locking mechanism for locking a rod within an assembly, said locking mechanism comprising: a lock body 60 including a

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relieved portion 66 for allowing entry of a rod into an assembly and a grooved portion 62 for engaging and maintaining the rod within the assembly; wherein the grooved portion includes rod engaging means 64.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer as applied to claim 52 above and further in view of the following. Kramer discloses the claimed invention except for the cam lock including a wedge shaped outer surface. It would have been an obvious matter of design choice to one skilled in the art at the time the invention was made to construct the cam lock of Kramer with wedge shaped outer surface, since Applicant has not disclosed that such solve any stated problem or is anything more than one of numerous shapes or configurations a person ordinary skill in the art would find obvious for the purpose of providing a forming edge in the heating portion or clamp. In re Dailey and Eilers, 149 USPQ 47 (1966).



***Allowable Subject Matter***

Claim 57 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

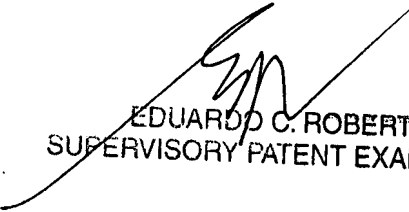
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Priddy whose telephone number is 571-272-2243. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael B. Priddy  
*Michael B. Priddy*  
May 9, 2007

  
EDUARDO C. ROBERT  
SUPERVISORY PATENT EXAMINER